

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JUSTIN S. MOTE,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No: 2:20-CV-388

Crim No: 2:12-CR-234

Judge Edmund A. Sargus, Jr.

Magistrate Judge Chelsey M. Vascura

ORDER

On January 24, 2020, the Magistrate Judge issued a *Report and Recommendation* (“R&R”) recommending that Movant’s motion to vacate under 28 U.S.C. § 2255 be transferred to the United States Court of Appeals for the Sixth Circuit as successive. (ECF No. 74.)

Although the parties were advised of the right to object to the R&R, and of the consequences of failing to do so, no objections have been filed. The R&R (ECF No. 74) is therefore, **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

An order transferring a motion to an appellate court for consideration as a second or successive habeas corpus application is not appealable. *See Howard v. United States*, 533 F.3d 472, 474 (6th Cir. 2008) (“Our court’s practice in the case of second-or-successive transfer orders to this court is to treat the transfer order as non-appealable . . .”). Accordingly, the Court **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.

2-20-202

DATE



EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE